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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,299	08/05/2003	Randall T. Webber	5767-PA16CP	7960
27189	7590	12/12/2006	EXAMINER	
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP			RICHMAN, GLENN E	
530 B STREET			ART UNIT	PAPER NUMBER
SUITE 2100				
SAN DIEGO, CA 92101			3764	

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/634,299	WEBBER ET AL.	
	Examiner Glenn Richman	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4-10,12-14,17-33,37 and 38 is/are rejected.
- 7) Claim(s) 2,3,11,15,16,34-36 and 39-41 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s), (PTO/SB/08)
Paper No(s)/Mail Date <u>6/28/04, 11/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-10, 12-14, 17-26, 29-33, 37, 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Alessandri (6,244,999)

Alessandri discloses a main arm having a first end for pivoting on a frame of an exercise machine for pivoting about a first pivot axis (50); a swing arm having a first end pivoted to the main arm for pivoting about a second pivot axis and a second end (79); and a handle pivoted to the second end of the swing arm for pivoting about a third pivot axis (71), each pivot axis being non-parallel to the other two pivot axes, and at least one pivot axis being non-perpendicular to the other two pivot axes (fig. 1), the swing arm has an inboard side and an outboard side, and the handle is pivoted at the inboard side of the swing arm (fig. 1), a pivot connection between the main arm and swing arm defining the second pivot axis, the pivot connection including a range limiting device for limiting the rotation of the swing arm about the second pivot axis to a predetermined angular range (77), the pivot connection comprises a pivot sleeve on one of the arms (63), a pivot bracket on the other arm (64), and a pivot pin extending through the bracket and sleeve to rotatably secure the bracket to the sleeve (65a), the main arm and swing arm each have a central axis extending up to said pivot connection, and said pivot sleeve is

secured to said one arm at a non-perpendicular orientation to the central axis of said one arm (fig. 5), the range limiting device comprises a limiter member on the sleeve having a slot defining said angular range, and a pin mounted on the bracket for engagement in the slot (col. 3, lines 46 – et seq.), the handle comprises a pivot bracket having a pivot shaft rotatably secured to the swing arm for rotation about said third pivot axis (fig. 1), and a grip rotatably mounted on the bracket for rotation about a fourth axis perpendicular to the third pivot axis (71), the grip is offset from the third pivot axis (fig. 1), a pivot sleeve secured to the second end of the swing arm, said pivot shaft being rotatably secured in said pivot sleeve, and said pivot sleeve being oriented at a non-perpendicular angle to said swing arm (fig. 1),

As for claims 13-26, 29-33, 37, 38 Alessandri discloses a pair of exercise arm assemblies (fig. 1); each arm assembly having a main arm (50), a swing arm (79), and a handle (69); each main arm having a first end for pivoting on a frame of an exercise machine for pivoting about a first pivot axis and a second end; each swing arm having a first end pivoted to second end of the respective main arm for pivoting about a second pivot axis and a second end; each handle being pivoted to the second end of the respective swing arm for pivoting about a third pivot axis, each pivot axis being non-parallel to the other two pivot axes, and at least one pivot axis being non-perpendicular to the other two pivot axes (fig. 1), a pivot sleeve extending between the first ends of the main arms (63), and a pivot shaft rotatably mounted in the pivot sleeve for securing at a selected location on an exercise machine frame (fig. 1), at least a first portion of the main arm and the first pivot axis define a first plane perpendicular to the first pivot axis,

and the swing arm is pivoted to the main arm at a location askew from the first plane (fig. 1), the swing arms are angled outwardly in said rest position (fig. 2), the grip is offset from the third pivot axis (fig. 2), the grip extends transverse to the third pivot axis and is coplanar with said third pivot axis (fig. 2), each grip has opposite ends, each end of the grip having projecting annular guards for preventing contact between the user's hands when holding the grips on each arm assembly (fig. 2), each pivot axis is non-perpendicular to the other two pivot axes

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alessandri (6,244,999) in view of Trainor (6,592,498).

Alessandri does not disclose each handle bracket is generally c-shaped and has opposite, parallel arms, the grip having a longitudinal axis and being rotatably mounted between the arms of the handle bracket for rotation about said longitudinal axis.

Trainor discloses each handle bracket is generally c-shaped and has opposite, parallel arms, the grip having a longitudinal axis and being rotatably mounted between the arms of the handle bracket for rotation about said longitudinal axis (21) .

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It would have been obvious to use Trainor's c-shaped bracket with Alessandri's handle, as it is well known as taught by Trainor, to use a c-shaped bracket to provide a grip that can be oriented at a large range of angles relative to the arm member.

Allowable Subject Matter

Claims 2, 3, 11, 15, 16, 34-36, 39-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Glenn Richman
Primary Examiner
Art Unit 3764